

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



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Order Instituting Rulemaking to Enhance
the Role of Demand Response in Meeting
the State's Resource Planning Needs and
Operational Requirements.

Rulemaking 13-09-011
(Filed September 19, 2013)

**REPLY COMMENTS
OF THE OFFICE OF RATEPAYER ADVOCATES**

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I. INTRODUCTION

The Office of Ratepayer Advocates (ORA) submits the following reply comments¹ on the May 20, 2016 *Ruling Requesting Responses to Additional Questions in Regard to 2018 and Beyond Demand Response Programs* (Ruling), in the above-referenced docket. Responses will develop a record for a decision providing Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), and Southern California Edison Company (SCE) (jointly, “the IOUs”) guidance for 2018 and beyond Demand Response (DR) activities. On July 11, 2016, Administrative Law Judge (ALJ) Hymes issued a ruling, extending the time for parties to file reply comments to no later than July 15, 2016; thus, this filing is timely.

ORA summarizes its comments below:

1. In the auctions held pursuant to Demand Response Auction Mechanism (DRAM), IOUs should not be required to accept bids at any price or to procure up to the budget or megawatt (MW) caps if prices are too high.
2. Pay-As-Bid pricing coupled with multiple DRAM auctions provides maximum value to ratepayers while fairly compensating DR providers.
3. OhmConnect has a valid concern about fair and transparent competition between utility and non-utility resources but a non-utility administrator is not necessary.
4. The Commission should adopt the fossil-fueled Back-Up Generation (BUG) monitoring and enforcement provisions for 2018 and beyond.

¹ Parties submitting Opening Comments, include: the California Independent System Operator (CAISO), California Energy Storage Alliance (CESA), California Large Energy Consumers Association (CLECA), Comverge, Inc., CPower, EnerNOC, Inc., EnergyHub, and Johnson Controls, Inc. (collectively, the Joint DR Parties), Marin Clean Energy (MCE), OhmConnect, Inc. (OhmConnect), ORA, Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), Southern California Edison Company (SCE) and Shell Energy North America (US), L.P. (Shell Energy), and The Utility Reform Network (TURN).

II. DISCUSSION

A. In DRAM Auctions, IOUs Should Not Be Required To Accept Bids At Any Price Or To Procure Up To The Budget Or MW Caps If Prices Are Too High

PG&E argues that in order to ensure ratepayers are provided with the best DR value possible, IOUs will need some latitude to reject bids that are unreasonably priced.² SCE similarly argues a larger budget or MW caps must come with associated rules that utilities are not obligated to procure up to the budget cap if the prices are too high.³

ORA agrees with PG&E and SCE. A requirement to accept all bids that fall within the available California Independent System Operator (CAISO) customer registration limits or the authorized budgets would likely result in ratepayers paying for unreasonably priced bids. In Decision (D.)16-06-029, the Commission stated, “it is important for the Utilities to be prudent and sensible in selecting and approving bids. Hence, the Utilities are instructed to ensure that the bids fit portfolio needs and offer the best value to the ratepayers.”⁴ The Commission should reiterate that the Utilities must adhere to this directive established in D.16-06-029.

B. Pay-As-Bid Pricing Coupled With Multiple DRAM Auctions Provides Maximum Value To Ratepayers While Fairly Compensating DR Providers

In response to the Commission’s questions about transitioning DRAM from a pilot to a fully implemented program, parties recommend different mechanisms for compensating DR providers. The Joint DR Parties recommend the establishment of a centrally administered clearing price market and a floor for procuring capacity, administered by a third-party.⁵ Similarly, OhmConnect recommends an independent

² PG&E Opening Comments, p. 30.

³ SCE Opening Comments, p. 16.

⁴ D.16-06-029, pp. 45-46.

⁵ Joint DR Parties Opening Comments, pp. 27, 30.

entity (e.g., the CAISO) administer the DRAM program.⁶ Olivine recommends the establishment of clearing price, or price band as well as a price floor.⁷ None of these parties explain how the Commission should establish such mechanisms and/or how such mechanisms will lower the prices paid by ratepayers compared to the current utility DR programs.

TURN recommends the utilities purchase as much DR as can be provided through the DRAM, as long as capacity payments under the DRAM are lower than a transparent cost-effectiveness benchmark.⁸ However, TURN does not explain how this mechanism is materially different than how utilities currently procure DR under its Aggregator Managed Program (AMP), which also accepts all DR as long as it meets the Commission's cost-effectiveness protocols as a benchmark. SCE recommends the Commission consider relatively low minimum capacity targets subject to reasonable economic off-ramps, and relatively high budget caps to observe how the DRAM performance, participation, and pricing evolve.⁹ The Commission should not impose any overall MW limitation but should hold a series of competitive auctions with each auction having its own MW cap to ensure cost competitiveness. In ORA's opening comments ORA noted that one of the main advantages of a DRAM-like auction is that it rewards more efficient and cost-competitive DR providers by selecting their bids first.¹⁰ As long as the bids are compensated based on pay-as-bid pricing (with many bidders competing to provide a limited amount of MWs in each auction) and procurement is measured against the cost of well-accepted benchmark(s) for the product(s) procured, DRAM will provide maximum value to ratepayers while fairly compensating DR providers.

⁶ OhmConnect Opening Comments, p. 6.

⁷ Olivine Opening Comments, p. 7.

⁸ TURN Opening Comments, p. 21.

⁹ SCE Opening Comments, p. 16.

C. OhmConnect Has A Valid Concern About Fair And Transparent Competition Between Utility And Non-Utility Resources, But A Non-Utility Administrator Is Not Necessary

OhmConnect argues that because the utilities are presently the largest buyers and sellers of DR products, the Commission should require that an independent entity (e.g., the CAISO) administer the procurement mechanisms for DR products, rather than the utilities themselves.¹¹ OhmConnect is concerned whether there will be a fair and transparent competition between utility and non-utility DR supply resources wishing to provide RA capacity. OhmConnect argues that RA capacity from utility DR supply resources is valued at administratively-determined prices different from the market-based price at which RA from non-utility DR supply resources is valued.

Although the Commission has not specified the role of utilities versus non-utility providers in procuring supply resources, OhmConnect concern is valid—especially if there are no separate goals for utility and non-utility providers and both compete to provide the same RA capacity. At the same time, a non-utility administrator is unnecessary as the DRAM auctions are administered under the Commission’s direct guidance and oversight. The Commission’s review process allows discussion of utility administrators’ selection of bids at the Program Review Group meetings (PRG), where the Commission’s Energy Division, ORA, TURN, and other non-market participants can participate and provide input. Following the PRG meetings, the utilities are required to file advice letters to request Commission’s approval of their final selections.

(footnote continued from previous page)

¹⁰ ORA Opening Comments, p. 9.

¹¹ OhmConnect Opening Comments, p. 6.

The Commission should adopt ORA's proposal to fully transition supply DR from utility to third-party providers.¹² Limiting the utilities to an administrator role, and using competitive solicitations to select implementers, will avoid concerns that the utilities may have a bias for the programs they implement directly. This will help address OhmConnect's concerns for transparency.

D. The Commission Should Adopt The Fossil-Fueled Back-Up Generation (BUG) Monitoring And Enforcement Provisions For 2018 And Beyond DR

Sierra Club requests the Commission formalize its prohibition on the use of fossil-fueled resources in demand response programs, and adopt the BUG monitoring and enforcement provisions proposed by Energy Division in its September 2015 Staff Proposal.¹³ Sierra Club argues that: (1) mere attestation that fossil resources are not used to create the impression of load drops is insufficient, (2) the Potential Study credibly establishes that backup generation is unnecessary to the widespread deployment of DR, and (3) the Staff Proposal will not impose an undue burden on demand response participants as the vast majority of the projected DR resources come from resources and customers that would be unaffected by the Staff Proposal.¹⁴

¹² ORA Opening Comments, pp. 2-4. Under ORA's proposal, all Supply DR will be transitioned away from IOU programs to third-party providers to meet CAISO's ongoing resource needs. Competitive procurement will improve price discovery and reduce costs to ratepayers. Utilities would continue to play an important role in facilitating the increasing amounts of third-party direct participation in the CAISO markets. The utilities would also continue to offer time-differentiated rates—TOU, CPP and Real-Time Pricing (RTP)—to encourage customers to shift demand from peak hours when the electric grid is expected to be stressed for resources. The IOUs would be responsible for ensuring these programs are embedded in the CEC's load forecast. The IOUs would remain responsible for DRAM procurement auctions and making payments to winning bidders.

¹³ Sierra Club Opening Comments, p. 1.

¹⁴ *Id.*, pp. 2-4.

ORA supports the Sierra Club's position on BUGs. California ratepayers should not have make large DR capacity payments without a way to verify compliance with the Commission's ban on use of BUGs in providing or enabling DR.

III. CONCLUSION

As discussed above, the Commission should adopt ORA's recommendations.

Respectfully submitted,

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